

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ROY TROST also known as DAISY
LYNNE MEADOWS,

Plaintiff,

v.

NEVADA BOARD OF PRISON
COMMISSIONERS, et al.

Defendants.

Case No. 3:22-cv-00214-ART-CSD

ORDER
and
REFERRAL TO PRO BONO
PROGRAM

I. DISCUSSION

Plaintiff Roy Trost also known as Daisy Lynne Meadows is currently in the custody of the Nevada Department of Corrections (“NDOC”).¹ Meadows has submitted a first amended civil rights complaint (“FAC”) pursuant to 42 U.S.C. § 1983 (ECF No. 37)² and has filed an application to proceed *in forma pauperis* (ECF No. 47)³ along with numerous other motions (ECF Nos. 1-3, 1-4, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 24, 28, 29, 30, 31, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56). The matter of the filing fee will be temporarily deferred. The Court now addresses several of Meadows’ motions.

Meadows filed three motions for appointment of counsel (ECF Nos. 1-4, 3, 35). A litigant does not have a constitutional right to appointed counsel in § 1983

¹ When possible, the Court will refer to Meadows by her chosen name, Daisy Lynne Meadows, and use female pronouns to align with Meadows’ identified gender. (See ECF No. 26 at 1).

² Because Meadows filed an FAC in this case, the Court denies as moot Meadows’ motions for reconsideration of the order dismissing her 174-page original complaint without prejudice and denying her ability to file exhibits as premature. (ECF Nos. 28, 29).

³ The Court denies as moot Meadows’ motion regarding complications to submitting a complete application to proceed *in forma pauperis* (ECF No. 34). Meadows has filed a complete application to proceed *in forma pauperis* at ECF No. 47.

1 actions. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to
2 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any
3 person unable to afford counsel.” However, the court will appoint counsel for
4 indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560
5 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether
6 ‘exceptional circumstances’ exist, a court must consider the likelihood of success
7 on the merits as well as the ability of the petitioner to articulate [her] claims *pro*
8 *se* in light of the complexity of the legal issues involved.” *Id.* “Neither of these
9 considerations is dispositive and instead must be viewed together.” *Id.*

10 The Court finds that exceptional circumstances warrant the appointment
11 of counsel here. The Court has reviewed the FAC and finds that Meadows raises
12 numerous colorable legal claims that are novel and complex. To illustrate,
13 Meadows is a person who identifies as female. However, based on the allegations,
14 prison officials refuse to recognize or accept this and classify her as male, house
15 her in a male prison, and limit her access to clothing and accessories that other
16 female inmates are entitled to wear or use in the prison system. Meadows also
17 alleges multiple instances of rape and sexual abuse in the prison system.
18 Additionally, Meadows asserts that, in retaliation for reporting rape and sexual
19 abuse, prison officials will purposely house her with male inmates who have
20 raped or sexually abused her in the past or punish her by housing her in
21 segregation. Meadows also alleges that she has been approved for gender
22 confirmation surgery, but prison officials will not provide the surgery.

23 In her FAC, Meadows raises colorable legal claims that include, but are
24 not limited to, Eighth Amendment deliberate indifference to serious medical
25 needs and gender confirmation surgery; Fourth Amendment unreasonable
26 searches involving cross-gender strip searches; Fourteenth Amendment equal
27 protection violations involving the availability of gender-specific clothing and
28 accessories and the decision to house female inmates with male inmates; Eighth

1 Amendment failure to protect and sexual assault; and First Amendment
2 retaliation. The Court concludes that Meadows' ability to litigate these claims
3 would be enhanced by the assistance of counsel. Thus, the Court grants
4 Meadows' motions for appointment of counsel (ECF Nos. 1-4, 3, 35).

5 This case is hereby referred to the Pro Bono Program adopted in the Second
6 Amended General Order 2019-07 for the purpose of screening for financial
7 eligibility (if necessary) and identifying counsel willing to be appointed as pro
8 bono counsel for Meadows. The scope of appointment will be for all purposes,
9 including the filing of a second amended complaint, through the conclusion of
10 trial. By referring this case to the Program, the Court is not expressing an opinion
11 as to the merits of the case.

12 The Court further notes that, in a two-month period, Meadows has filed
13 over 50 motions in this case. The Court has a heavy docket, and the repetitive
14 filings only slow the pace of this litigation by requiring the Court's attention and
15 consideration of small and secondary matters instead of the central issues in this
16 case. Because the Court seeks to appoint pro bono counsel in this matter,
17 Meadows should discuss any future filings with her appointed counsel and have
18 appointed counsel file any necessary motions.

19 Because the Court seeks to appoint pro bono counsel, the Court denies as
20 moot Meadows' motions involving the ability to draft a complaint, file exhibits,
21 seek more information or evidence, join plaintiffs, or consolidate cases. (See ECF
22 Nos. 5, 6, 10, 11, 12, 13, 36, 40, 42, 45, 52, 53).

23 **II. CONCLUSION**

24 It is hereby ordered that the motions for appointment of counsel (ECF Nos.
25 1-4, 3, 35) are granted.

26 It is further ordered that this case is referred to the Pro Bono Program for
27 appointment of counsel for the purposes identified herein.

28 It is further ordered that the Clerk forwards this order to the Pro Bono

1 Liaison.

2 It is further ordered that the motions for reconsideration (ECF Nos. 28, 29)
3 are denied as moot.

4 It is further ordered that the motion regarding complications to submitting
5 a complete application to proceed *in forma pauperis* (ECF No. 34) is denied as
6 moot.

7 It is further ordered that the motions involving drafting complaints, seeking
8 information, and litigation strategy (ECF Nos. 5, 6, 10, 11, 12, 13, 36, 40, 42, 45,
9 52, 53) are denied due to the referral of this case to the Pro Bono Program for
10 appointment of counsel.

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12 DATED THIS 19th day of July 2022.

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16 ANNE R. TRAUM
17 UNITED STATES DISTRICT JUDGE
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